S.B. CRIMINAL MISC. PETITION NO.439/2007
(Krishan Gopal Vs. State of Raj. & Anr.)

Date of order **: :** 16.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr. G.K.Sharma, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.
Mr. Dharmendra Jasmatiya, for the respondent No.2.

Heard learned counsel for the petitioners and the learned Public Prosecutor as well as learned counsel for the respondent No.2.

By this criminal misc. petition under Section 482 Cr.P.C., the petitioner has prayed for quashing of criminal proceedings pending against them in the court of learned Judicial Magistrate No.2, Jodhpur in Criminal Case No.445/2004 for offence under Section 498-A I.P.C.

Learned counsel for the petitioners states that it is a matrimonial dispute between the parties which has resulted into criminal proceedings against the petitioner under 498-A IPC.

Thereafter, both the parties have come to the comprise and they have no grievance against each other and both the husband and wife are living together peacefully. He further states that respondent No.2-wife has submitted the compromise before the lower court but the lower court has refused to attest the compromise for offence under Sections 498-A I.P.C. He states that the learned trial court despite the fact that parties have entered into written compromise, has proceeded ahead in the criminal case pending against the petitioner. In support of his arguments, learned counsel for the petitioners has placed reliance upon the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. Vs. State of Haryana, reported in (2003) 4 SCC 675.

Learned counsel for the respondent No.2 has also submitted before me that comprise has arrived at between both the parties.

I have considered the arguments made by learned counsel for the petitioners and gone through the record of the case as well as the documents produced before me by the learned

counsel for the petitioner. I have also gone through the judgment cited by the learned counsel for the petitioners in case of B.S. Joshi & Ors. (supra) wherein their Lordships while considering the object of introducing Chapter XX-A containing Section 498-A, have observed as under:

> "There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her to her relatives to satisfy unlawful demands of dowry. The hyper technical view would be counterproductive and would act against interest of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code".
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> "In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code".

Taking into consideration the statement made by the learned counsel for the petitioner as well as learned counsel for

the respondent No.2, I am satisfied that both the parties have genuinely settled their matrimonial dispute and now they have no grievance against each other and the husband and wife are living together peacefully. In this view of the matter and taking into account the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. (supra), I find it to be a fit case where inherent jurisdiction under Section 482 Cr.P.C. should be exercised.

For the reasons as stated hereinabove, I allow this misc. petition and quash the proceedings against the petitioner pending in the court of learned Judicial Magistrate No.2, Jodhpur in Criminal Case No.445/2004 for offence under Section 498-A I.P.C.

(KRISHAN KUMAR ACHARYA), J.

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